



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Legal Processes

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. § 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by any of the following methods:

- E-mail: InformationCollection@uspto.gov. Include "0651-0046 comment" in the subject line of the message.
- Mail: Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.
- Federal Rulemaking Portal: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Shirley Hassan, Office of General Law, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450; by telephone at 571-272-3000; or by e-mail to Shirley.Hassan@uspto.gov. Additional information about this collection is also available at <http://www.reginfo.gov> under "Information Collection Review."

SUPPLEMENTARY INFORMATION

I. Abstract

The purpose of this collection is to cover information requirements related to civil actions and claims involving current and former employees of the United States Patent and Trademark Office (USPTO). The rules for these legal processes may be found under 37 CFR Part 104, which outlines

procedures for service of process, demands for employee testimony and production of documents in legal proceedings, reports of unauthorized testimony, employee indemnification, and filing claims against the USPTO under the Federal Tort Claims Act (28 U.S.C. § 2672) and the corresponding Department of Justice regulations (28 CFR Part 14). The public may also petition the USPTO Office of General Counsel under 37 CFR 104.3 to waive or suspend these rules in extraordinary cases.

The procedures under 37 CFR Part 104 ensure that service of process intended for current and former employees of the USPTO is handled properly. The USPTO will only accept service of process for an employee acting in an official capacity. This collection is necessary so that respondents or their representatives can serve a summons or complaint on the USPTO, demand employee testimony and documents related to a legal proceeding, or file a claim under the Federal Tort Claims Act. Respondents may also petition the USPTO to waive or suspend these rules for legal processes. This collection is also necessary so that current and former USPTO employees may properly forward service and demands to the Office of General Counsel, report unauthorized testimony, and request indemnification. The USPTO covers current employees as respondents under this

information collection even though their responses do not require approval under the Paperwork Reduction Act. In those instances where both current and former employees may respond to the USPTO, the agency estimates that the number of respondents will be small.

There are no forms provided by the USPTO for this collection. For filing claims under the Federal Tort Claims Act, the public may use Standard Form 95 "Claim for Damage, Injury, or Death," which is provided by the Department of Justice and approved by the Office of Management and Budget (OMB) under OMB Control Number 1105-0008.

II. Method of Collection

By mail or hand delivery to the USPTO.

III. Data

OMB Number: 0651-0046.

Form Number(s): None.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; businesses or other for-profits; not-for-profit institutions; and the Federal Government.

Estimated Number of Respondents: 299 responses per year. The USPTO estimates that approximately 10% of these responses will be from small entities.

Estimated Time Per Response: The USPTO estimates that it will take the public from 5 minutes (0.08 hours) to 6 hours to gather the necessary information, prepare the appropriate documents, and submit the information required for this collection.

Estimated Total Annual Respondent Burden Hours: 88 hours.

Estimated Total Annual Respondent Cost Burden: \$32,354. The USPTO expects that the information in this collection will be prepared by attorneys and former employees, except for the requests for employee indemnification, which generally come from professional and supervisory staff. Since many of the former employees affected by this collection are attorneys, the estimated rate of \$371 per hour for attorneys will be used for former employees as well. The USPTO estimates that the respondent cost burden for attorneys and former employees submitting the information in this collection will be \$32,277 per year.

Using the estimate of \$77 per hour for professional and supervisory staff, the USPTO expects that the respondent cost burden for submitting requests for employee

indemnification will be \$77 per year. Therefore, the USPTO estimates that the total respondent cost burden for this collection will be approximately \$32,354 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Petition to Waive Rules	30 minutes	5	3
Service of Process	5 minutes	243	19
Forwarding Service	10 minutes	7	1
Employee Testimony and Production of Documents in Legal Proceedings	1 hour	23	23
Forwarding Demands	10 minutes	10	2
Report of Unauthorized Testimony	30 minutes	1	1
Report of Possible Indemnification Cases	30 minutes	3	2
Employee Indemnification	30 minutes	1	1
Tort Claims	6 hours	6	36
Totals	299	88

Estimated Total Annual Non-hour Respondent Cost Burden: \$3,436. There are no capital start-up, maintenance, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) costs in the form of filing fees and postage costs.

This collection has filing fees associated with the petition to waive or suspend the legal process rules under 37 CFR 104.3. The USPTO estimates that approximately 5 petitions will be filed per year with a fee of \$130, for a

total fee cost of \$650. There are no other fees associated with this information collection.

Customers may incur postage costs when submitting the information in this collection to the USPTO by mail. The USPTO estimates that the average first-class postage for a mailed submission, other than a Service of Process, will be 92 cents and that up to 56 of these submissions will be mailed to the USPTO per year, for a postage cost of \$52. The USPTO estimates that the average postage for a Service of Process will be \$11.25 and that up to 243 of these submissions will be mailed to the USPTO per year, for a postage cost of \$2,734. The total estimated postage cost for this collection is approximately \$2,786 per year.

The total annual (non-hour) respondent cost burden for this collection in the form of filing fees and postage costs is estimated to be approximately \$3,436 per year.

IV. Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

The USPTO is soliciting public comments to:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of

the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: February 27, 2013

Susan K. Fawcett,
Records Officer, USPTO,
Office of the Chief Information Officer.
BILLING CODE: 3510-16-P

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